

ESTTA Tracking number: **ESTTA586524**

Filing date: **02/10/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	J.T. POSEY COMPANY
Granted to Date of previous extension	02/08/2014
Address	5635 PECK ROAD Arcadia, CA 91006 UNITED STATES
Attorney information	JAMES A HENRICKS Henricks, Slavin & Holmes LLP 840 Apollo Street Suite 200 El Segundo, CA 90245 UNITED STATES jhenricks@hsh-iplaw.com Phone:3105631456

Applicant Information

Application No	85812607	Publication date	12/10/2013
Opposition Filing Date	02/10/2014	Opposition Period Ends	02/08/2014
Applicant	Mark L. Moore 2281 Lava Ridge Court, Suite 130 Roseville, CA 95661 USX		


Goods/Services Affected by Opposition


Class 010. First Use: 1947/01/01 First Use In Commerce: 1947/01/01
All goods and services in the class are opposed, namely: Hearing aids

Grounds for Opposition

Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily merely a surname	Trademark Act section 2(e)(4)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	719717	Application Date	05/09/1960
Registration Date	08/08/1961	Foreign Priority Date	NONE
Word Mark	POSEY POSEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U044 (International Class 005, 008, 010, 012). First use: First Use: 1940/01/01 First Use In Commerce: 1940/01/01 Hospital Equipment-Namely, Safety Belts, Restraints, [Surgical Helmets,] Supports, [Gowns,] Cradles, Foot Rests, Drying Mats, [Bedwarmers and Cast Driers,] Footboards, Splints, Mattress Pads, Mattress Protectors, [Bibs, Diapers,] Slings, [Weights, Spreaders,] Halters		

U.S. Registration No.	1518793	Application Date	03/21/1988
Registration Date	01/03/1989	Foreign Priority Date	NONE
Word Mark	POSEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1940/01/01 First Use In Commerce: 1940/01/01 HOSPITAL EQUIPMENT, NAMELY, RESTRAINING VESTS, JACKETS [AND SUITS] ; APRONS; PATIENT RESTRAINING NETS; PADDING FOR WHEELCHAIRS; [DECUBITUS PADS;] CUSHIONS; CUFFS; PROTECTIVE [GLOVES AND] MITTS; STRAIGHT JACKETS; [PATIENT LIFTING CRADLES AND] BED CRADLES; WHEELCHAIR PATIENT SAFETY RESTRAINTS; I.V. TUBE AND CATHETER TUBE HOLDERS; CLIPS; HEEL PROTECTORS; FOOT GUARDS AND FOOT SUPPORTS; LIMB HOLDERS; ELBOW PROTECTORS; [CERVICAL COLLARS; SHOULDER IMMOBILIZERS;] ARM BOARDS AND STRAPS; I.V. BOARDS AND STRAPS; CUFF INFLATORS AND		

	MANOMETERS; HAND AND FINGER SUPPORTS; WRIST AND ANKLE RESTRAINTS; [WRIST AND ANKLE WEIGHTS; BABY CARRIERS;] EYE PROTECTORS; [WATER AND SAND TRACTION WEIGHTS;] HAND EXERCISERS; WALKING BELTS; HAND GRIPS [; HEAD HALTERS; PELVIC TRACTION BELTS; AND TRACTION CORDS]
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U.S. Registration No.	2817300	Application Date	02/12/2003
Registration Date	02/24/2004	Foreign Priority Date	NONE
Word Mark	POSEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1940/01/01 First Use In Commerce: 1940/01/01 Hospital equipment, namely, orthopedic supports; slings for medical USC; restraining devices for hospital and nursing home patients, namely, wrist and ankle restraints, cuffs, restraining vests, restraining jackets, straight jackets, patient restraining nets, safety belts, and restraining suits; modesty aprons for use with wheel chairs; orthopedic and surgical splints; mattress pads and mattress protectors to treat and prevent pressure ulcers and sores; padding for wheelchairs; decubitus pads for orthopedic use; cushions for orthopedic use; protective gloves and mitts for surgical and medical use; patient lifting cradles and bed cradles; wheelchair patient safety restraints; orthopedic supports and devices, namely, heel protectors, foot guards, foot supports, foot rests, limb holders, elbow protectors, and arm boards and straps; IV boards and straps; [sphygmomanometers] and cuff inflators therefor; hand and finger orthopedic supports; physical therapy equipment, namely, hand grips, footboards, and hand exercisers; walking belts, namely, orthopedic supports for the hips; traction cords for use in supporting weights, splints, and casts during traction; and electronic patient monitors for use in monitoring patient position, presence, and absence		

U.S. Registration No.	3875355	Application Date	01/28/2009
Registration Date	11/16/2010	Foreign Priority Date	NONE
Word Mark	POSEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1993/12/31 First Use In Commerce: 1993/12/31 Hand and limb patient restraints; patient bedside floor cushions for medical purposes; hip protectors comprising cushions for medical purposes; patient monitoring fall alarms; patient monitoring sensors; magnets for medical		

	<p>purposes, namely, magnets color coded for characterizing patients; bed gap filler in the nature of cushions for medical purposes; bed cushions for medical purposes; tie for endotracheal tubes; gait belts; incontinence bed pads and covers therefor; chin strap for medical purposes; catheter holder strap; IV shield; eye protectors for shielding patient's eyes from light for medical purposes</p> <p>Class 020. First use: First Use: 1993/12/31 First Use In Commerce: 1993/12/31</p> <p>bed enclosure comprised of bedside rail protectors for use with patient beds</p> <p>Class 025. First use: First Use: 1993/12/31 First Use In Commerce: 1993/12/31</p> <p>slippers and socks</p>
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	POSEY and POSEY POSEY Logo		
Goods/Services	<p>sound amplifiers for hearing, eye protectors, hospital equipment, cushions, gait belts, incontinence pads and covers, patient monitoring alarms, safety belts, padding for wheelchairs, cushions, heel protectors and foot guards, hand and finger supports, mattress pads and mattress protectors, cushions for orthopedic use, protective gloves and mitts, elbow protectors, physical therapy equipment, for example handgrips, hand exercisers, and walking belts</p>		

Attachments	<p>72096732#TMSN.gif(bytes)</p> <p>73717674#TMSN.gif(bytes)</p> <p>77658402#TMSN.jpeg(bytes)</p> <p>14-02-10 Notice of Opposition.pdf(1025976 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/James A Henricks/
Name	JAMES A. HENRICKS
Date	02/10/2014

J.T. POSEY COMPANY,
Opposer,

MARK L. MOORE,
Applicant.

2. In or around 1940, Posey began selling patient care devices under its trademarks. Over the years since then, Posey has offered and sold a wider variety of products, including not only products for patient care but also relating to patient safety and similar purposes. The Posey name and Posey brand have become well-known in the industry, representing high-quality, innovation, reliability and customer service.

3. For decades, Posey has used several "**Posey**" trademarks. First, the name "**POSEY**" has been used to identify Opposer's products and services. Second, a logo commonly known as the "**Posey Posey logo**" has also been used. These two trademarks are represented in several US trademark registrations, below (see also Exhibit A).

4. Posey sells a wide variety of product under its trademarks, some examples of which include sound amplifiers for hearing, eye protectors, cushions, gait belts, incontinence pads and covers, patient monitoring alarms, safety belts, padding for wheelchairs, cushions, heel protectors and foot guards, finger supports, mattress pads and mattress protectors, cushions for orthopedic use, protective gloves and mitts, elbow protectors, physical therapy equipment, for example handgrips, hand exercisers, and walking belts. Numerous other products are represented by Posey's common law use and also Posey's US trademark registrations, below (see also Exhibit A). Opposer has sold these products under its trademarks since before Applicant's filing date, and continues to do so.

5. Posey's products are for patient assistance and patient safety, and related healthcare areas. They are directed to a wide variety of users, some of which include older patients managing infirmities, including hearing, balance control, skin injuries, mobility issues, and personal safety.

6. Posey also provides services, including education and training in managing patient conditions and care, webinars, and the like. Posey has offered these services since before Applicant's filing date, and continues to do so.

7. On May 9, 1960, Opposer filed Application Serial Number 96,732 for the

trademark "**Posey Posey Logo**". Opposer's US Registration 719,717 issued from that application August 8, 1961. It covers among other things, hospital equipment including safety belts, restraints, halters and slings, with a date of first use at least as early as 1940. The registration is still in force. (See, Exhibit A.)

8. On March 21, 1988, Opposer filed Application Serial Number 717,674 for the trademark "**Posey Posey Logo**". Opposer's US Registration 1,518,793 issued from that application January 3, 1989. It covers among other things hospital equipment and other patient items including restraining vests and jackets, padding for wheelchairs, cushions, heel protectors and foot guards, finger supports, eye protectors, hand exercisers, handgrips, and walking belts, with a date of first use at least as early as 1940. The registration is still in force. (See, Exhibit A.)

9. On February 12, 2003, Opposer filed Application Serial Number 78/214,203 for "**POSEY**". Registration Number 2,817,300 issued from that application February 24, 2004. Among other things, the registration covers safety belts, restraining suits, orthopedic and surgical splints, mattress pads and mattress protectors to treat and prevent pressure ulcers and sores, padding for wheelchairs, cushions, protective gloves and mitts, wheelchair patient safety restraints, heel protectors, foot guards, foot supports, foot rests, limb holders, elbow protectors, hand and finger supports, handgrips, footboards, hand exercisers, walking belts, and patient monitors, with a date of first use at least as early as 1940. The registration is still in force. (See, Exhibit A.)

10. On January 28, 2009, Opposer filed Application serial number 77/658,402 for

"POSEY". Registration Number 3,875,355 issued November 16, 2010. Among other things, the registration covers eye protectors, bed cushions, gait belts, incontinence pads and covers and patient monitors, with a first use at least as early as 1993. The registration is still in force. (See, Exhibit A.)

11. In 2006, Opposer began marketing hearing assistance devices in the form of sound amplifiers. Opposer has been marketing and selling such devices since that time. (See, Exhibit B.)

12. Opposer's product are sold through a number of channels, including third party retail stores to users, distributors, and directly to hospitals, clinics and similar outlets.

13. Upon information and belief, in or around 1957, Marvin Posey (not related to Opposer) opened a Posey's Hearing Aid Center in central California. After growing the business, Mr. Posey opened additional stores, and subsequently opened stores for or sold stores to family members, which stores have used and may continue to use the family name Posey's Hearing Aid Center. Upon information and belief, the name is still being used on stores at the present time.

14. Upon information and belief, at no time has Applicant owned or had any proprietary interest in any store named Posey's Hearing Aid Center. Upon information and belief, at no time has Applicant sold product or provided services under the mark Posey or Posey's Hearing Aid Center.

15. Upon information and belief, at no time has Applicant made or had made, offered for sale or sold, or marketed any product under the name Posey or Posey's Hearing Aid

Center.

16. Upon information and belief, there are at least three Posey's Hearing Aid Center stores with the right to and still using that name, and Applicant has no rights thereto. Upon information and belief, at no time has Applicant owned, or had any proprietary interest in, any retail or assistance Center under the name of or affiliated in any way with Posey's Hearing Aid Center.

17. Upon information and belief, the Posey's Hearing Aid Center stores provide only retail store services and hearing aid fitting services, and have sold no product marked, labeled or otherwise identified the source of origin of the products as "Posey's Hearing Aid Center".

18. On July 9, 2003, Applicant and another filed US trademark application Serial Number 76/528,778 under Section 1(a) for the service mark **"HEARING PROBLEMS? OR IS IT JUST EARWAX!"**, for "hearing examinations and provision of hearing aids" alleging a date of first use of December 31, 1995. The application was abandoned because Applicant failed to respond or filed a late response to an Office Action.

19. On July 9, 2003, Applicant and another filed US trademark application Serial Number 76/528,777 under section 1(a) for the service mark **"DON'T BUY A HEARING AID. . . UNTIL YOU'VE SEEN WHAT OUR ENGINEERS HAVE CREATED!"** for "hearing aid services", alleging a date of first use of December, 1995. The application was published for opposition August 17, 2004, and issued November 9, 2004, as US Registration Number 2,901,291. The registration was canceled June 10, 2011, because registrant did not file an acceptable declaration under Section 8.

20. On January 25, 2011, Applicant filed US trademark application Serial Number 85/225,504 under Section 1(a) for the trademark "**INTELA-HEAR**" for "hearing aids" alleging a date of first use of December 1, 2010. That application was published for opposition October 11, 2011, and issued December 27, 2011, as Registration Number 4,076,278.

21. On April 21, 2011, an Office Action was issued to Applicant by e-mail to his attorney. The application was rejected in the Office Action because the specimen consisted of advertising material for goods. In response, Applicant, through his attorney, filed a substitute specimen on August 10, 2011, with a scanned image of a package used to deliver goods and accessories to patients. The substitute specimen was found acceptable.

22. On January 26, 2011, Applicant filed US trademark application Serial Number 85/227,170 under Section 1(a) for the service mark "**INTELA-HEAR & Design**" for "hearing aid services" alleging a date of first use of December 1, 2010. That application was published for opposition November 1, 2011, and issued January 17, 2012, as Registration Number 4,086,632.

23. On August 15, 2012, Applicant filed US trademark application Serial Number 85/703,846 under Section 1(b) for "**NEXUS**" for "hearing aids". On or about August 16, 2013, Applicant filed a statement of use, alleging a date of first use of January 1, 2013. That application was published for opposition February 12, 2013, and issued as US Registration Number 4,429,773 on November 5, 2013.

24. After receiving a Notice of Allowance in the **NEXUS** application, Applicant knowingly filed or caused to be filed an Amendment to Allege Use on August 16, 2013,

allegedly showing a hearing aid product offered for sale to the general public and showing the trademark. Upon information and belief, the alleged specimen is a computer-generated drawing or image with the trademark name superimposed on the image and is not a photograph of product.

25. On September 1, 2012, Applicant filed a US trademark application for "**MOORE HEARING SHOPPES**" under Section 1(b) for "hearing aids". That application was abandoned because applicant failed to respond or filed a late response to an Office Action.

26. On September 13, 2012, Applicant filed a US trademark application Serial Number 85/728,409 for "**McDonald Hearing Aid Center**" for "hearing aids" under Section 1(a), alleging a date of first use anywhere of April 1, 1944, and a date of first use in commerce of May 1, 1990.

27. On December 11, 2012, an Office Action issued to Applicant's attorney by e-mail in part rejecting Applicant's Specimens "because it consists of advertising material for goods." The Specimen is identical in many ways to the Specimen submitted approximately one year later in the present Application Serial Number 85/812,607. The present Application Serial Number 85/812,607 was filed approximately 18 days after the Office Action issued in the McDonald application.

28. The McDonald Application was abandoned for failure to respond to the December 11, 2012 Office Action.

29. On December 16, 2013, Applicant filed Serial Number 86/144,269 under Section 1(b) for **LINQ** for "hearing aids". That application remains pending.

30. On December 29, 2012, Applicant filed the present Application Serial Number 85/812,607 under Section 1(a) for "hearing aids", alleging a date of first use of January 1, 1947. Upon information and belief, Applicant knew that he had not used the trademark at least as early as January 1, 1947. The application was published for opposition December 10, 2013. See, Exhibit C.

31. On December 29, 2012, Applicant knowingly filed or authorized to be filed the present trademark application under Section 1(a) alleging that Applicant is the owner of the trademark sought to be registered. Upon information and belief, Applicant has never had any right in or ownership of the trademark. Upon information and belief, Applicant knew that he was not the owner of the trademark.

32. On December 29, 2012, Applicant knowingly filed or authorized the filing of the present trademark application alleging a date of first use at least as early as January 1, 1947, and a date of first use in commerce at least as early as January 1, 1947. Upon information and belief, Applicant has never used the trademark on or in conjunction with the goods.

33. On December 29, 2012, Applicant knowingly filed or authorized to be filed the present application alleging that the trademark was then in use in commerce. Upon information and belief, Applicant was not then using and never has used the trademark in commerce or in any other way. Upon information and belief, Applicant knew that he was not using the trademark in commerce.

34. On December 29, 2012, Applicant knowingly filed or authorized to be filed the present application with a rendering of the trademark asserting that such rendering was a

specimen representing actual use of the trademark. Upon information and belief, Applicant knew that such rendering was not a specimen representing actual use of the trademark.

35. On October 19, 2013, Applicant knowingly filed or caused to be filed a response to a rejection of Applicant's specimen with a new document alleged to be a specimen representing actual use of the trademark in the form of a newspaper ad promoting the sale of hearing aids and related services at Posey's Hearing Aid Center. Upon information and belief, the October 19, 2013 Specimen is a fake document created by Applicant for the purpose of persuading the Trademark Office to issue the present application as a registration. Upon information and belief, Applicant had no ownership or affiliation with any Posey's Hearing Aid Center at the time of filing the October 19, 2013 Specimen. Upon information and belief, the October 29, 2013 Specimen was not in use at that time, and Applicant knew the specimen was not in use at that time. Upon information and belief, Applicant knowingly filed the new specimen alleged to be a newspaper ad representing actual use of the trademark to deceive the Trademark Office to issue a registration on the present trademark.

36. On October 19, 2013, when the new Specimen was filed, Applicant was not using the mark in commerce on or in connection with the goods. Upon information and belief, Applicant knew he was not using the mark on October 19, 2013. Upon information and belief, Applicant knowingly alleged actual use of the trademark to deceive the Trademark Office to issue a registration on the present trademark.

37. On October 19, 2013, Applicant knowingly filed or caused to be filed a Section 2(f) Claim of Acquired Distinctiveness, Based on Use, alleging that the present mark had

become distinctive of the goods through Applicant's substantially exclusive and continuous use in commerce for at least the 5 years immediately before October 19, 2013. Upon information and belief, Applicant knew that he did not have any rights to the trademark, and knew that any asserted rights were not exclusive to Applicant, and that Applicant had not continuously used the trademark for the five years preceding October 19, 2013. Upon information and belief, Applicant knew that he was not entitled to use the trademark in commerce. Upon information and belief, Applicant knowingly made the Section 2(f) claim to deceive the Trademark Office to issue a registration on the present trademark.

38. On October 19, 2013, Applicant knowingly filed or caused to be filed a response to an Office Action asserting that Applicant has been using Posey's Hearing Aid Center for approximately 20 years. Upon information and belief, Applicant has never used the trademark, and Applicant has not used the trademark for 20 years. Upon information and belief, Applicant knowingly asserted that Applicant has been using Posey's Hearing Aid Center for approximately 20 years to deceive the Trademark Office to issue a registration on the present trademark.

39. Applicant's mark as applied for is sufficiently similar to Posey's marks as registered and as used by Posey prior to the filing of Applicant's Application as to create a likelihood of confusion, as applied to the respective goods. Consequently, when applied to the proposed goods of Applicant, Applicant's mark is likely to cause confusion or mistake or to deceive users to the damage and detriment of Posey and its reputation.

40. Upon information and belief, Applicant Mr. Moore intends to offer goods under

his mark in channels of trade and market segments identical, closely related to or in the natural zone of expansion of those in which Posey currently offers its goods under its marks. Applicant's Goods are the same as or substantially similar to those provided by Posey.

41. Upon information and belief, the goods Applicant intends to offer under his mark are identical or so closely related to the goods in Posey's Registrations and to the goods Posey already offers under its marks, as to be likely to cause confusion and/or mistake, and to deceive the trade and public, who are likely to associate the goods offered by Applicant with those offered by Posey, or to believe that Applicant's Goods are sponsored, endorsed or licensed by Posey, or that there is some relationship between Applicant and Opposer.

42. Upon information and belief, Opposer avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's proposed goods to be marketed under Applicant's mark and misled into believing that such goods emanate from, or are licensed by, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

43. By virtue of Posey's extensive prior use and promotion of its marks, Opposer has established valuable goodwill in the marks, and the public has come to associate Opposer's marks exclusively with Posey. The public has come to know Opposer's marks as an indicator of goods and services that originate from Posey.

44. Upon information and belief, registration and/or use of Applicant's mark is likely to dilute Opposer's well-known marks.

45. Upon information and belief, registration of Applicant's mark as shown in the

Opposed Application will result in damage to Opposer under the provisions of §2(d) of the Lanham Act, 15 U.S.C. §1052(d) and §43(c) of the Lanham Act, 15 U.S.C. §1125(c), pursuant to the allegations herein.

46. Applicant has made false representations to the United States Patent and Trademark Office in order to obtain a trademark registration on the present application. These false representations are material to the registrability of the mark. Applicant had knowledge that the representations were false. Applicant made the representations with the intent to deceive the United States Patent and Trademark Office into granting a registration. The application should be refused for fraud on the US Patent and Trademark Office.

47. Wherefore Opposer believes and avers that it is being and will continue to be damaged by registration of the Applicant's Mark as aforesaid, and pray that said Application Serial No. 85/812,607 be rejected, that no registration be issued thereon to Moore, and that this Opposition be sustained in favor of Opposer.

Dated: February 10, 2014

Respectfully submitted,

/James A Henricks /
James A. Henricks
Attorney for Opposer

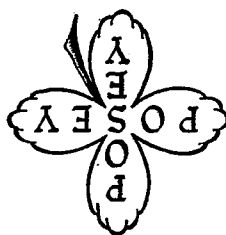
Henricks, Slavin & Holmes LLP
840 Apollo Street, Suite 200
El Segundo, CA 90245-4737
310-563-1456 (direct)
310-563-1460 (fax)
Email: jhenricks@hsh-iplaw.com

United States Patent Office

719,717
Registered Aug. 8, 1961

PRINCIPAL REGISTER
Trademark

Ser. No. 96,732, filed May 9, 1960



John T. Posey, doing business as J. T. Posey Company
2727 E. Foothill Blvd.
Pasadena, Calif.
For: HOSPITAL EQUIPMENT—NAMBLY,
SAFETY BELTS, RESTRAINTS, SURGICAL HEL-
METS, SUPPORTS, GOWNS, CRADLES, FOOT-
RESTS, DRYING MATS, BEDWARMERS AND CAST
DRIFTS, FOOTBOARDS, SPLINTS, MATTRESS
PADS, MATTRESS PROTECTORS, BIBS, DIAPERS,
SLINGS, WEIGHTS, SPREADERS, HALTERS—in
CLASS 44.
First use on or before Jan. 1, 1940; in commerce on
or before Jan. 1, 1940.

EXHIBIT A



United States Patent and Trademark Office

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Word Mark	POSEY POSEY
Goods and Services	IC 005 008 010 012. US 044. G & S: Hospital Equipment-Namely, Safety Belts, Restraints, [Surgical Helmets,] Supports, [Gowns,] Cradles, Foot Rests, Drying Mats, [Bedwarmers and Cast Driers,] Footboards, Splints, Mattress Pads, Mattress Protectors, [Bibs, Diapers,] Slings, [Weights, Spreaders,] Halters. FIRST USE: 19400101. FIRST USE IN COMMERCE: 19400101
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	05.05.25 - Daffodils; Iris (flower); Other flowers
Serial Number	72096732
Filing Date	May 9, 1960
Current Basis	1A
Original Filing Basis	1A
Registration Number	0719717
Registration Date	August 8, 1961
Owner	(REGISTRANT) POSEY, JOHN T. d.b.a. J. T. Posey Company INDIVIDUAL UNITED STATES 2727 E. FOOTHILL BLVD. Pasadena CALIFORNIA (LAST LISTED OWNER) J. T. Posey Company CORPORATION BY ASSIGNMENT CALIFORNIA 5635 Peck Road Arcadia CALIFORNIA 91006
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	James A. Henricks

EXHIBIT A

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECTION 8(10-YR) 20111228.

Renewal 3RD RENEWAL 20111228

Live/Dead Indicator LIVE

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Int. Cl.: 10



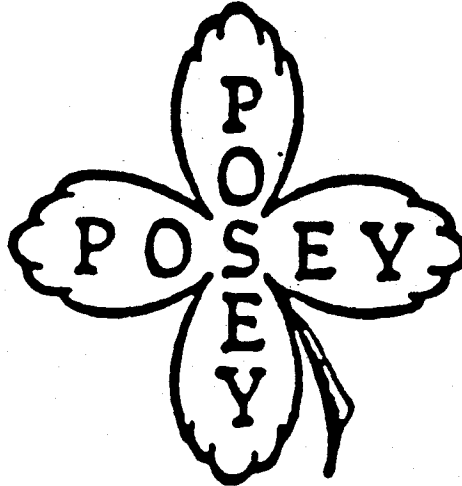
Prior U.S. Cl.: 44

United States Patent and Trademark Office

Reg. No. 1,518,793

Registered Jan. 3, 1989

**TRADEMARK
PRINCIPAL REGISTER**



J. T. POSEY COMPANY (CALIFORNIA CORPORATION)
5635 PECK ROAD
ARCADIA, CA 91006 ✓

FOR: HOSPITAL EQUIPMENT, NAMELY, RESTRAINING VESTS, JACKETS AND SUITS, APRONS; PATIENT RESTRAINING NETS; ~~PADDING FOR WHEELCHAIRS, DECUBITUS PADS, CUSHIONS, CUFFS, PROTECTIVE GLOVES AND MITTS; STRAIGHT JACKETS; PATIENT LIFTING CRADLES AND BED CRADLES; WHEELCHAIR PATIENT SAFETY RESTRAINTS, I.V. TUBE AND CATHETER TUBE HOLDERS; CLIPS; HEEL PROTECTORS; FOOT GUARDS AND FOOT SUPPORTS; LIMB HOLDERS; ELBOW PROTECTORS; CERVICAL COLLARS, SHOULDER IMMOBILIZERS, ARM~~

BOARDS AND STRAPS; I.V. BOARDS AND STRAPS; ~~CUFF INFLATORS AND MANOMETERS, HAND AND FINGER SUPPORTS, WRIST AND ANKLE RESTRAINTS, WRIST AND ANKLE WEIGHTS, BABY CARRIERS, EYE PROTECTORS, WATER AND SAND TRACTION WEIGHTS, HAND EXERCISERS, WALKING BELTS, HAND GRIPS, HEAD HALTERS, PELVIC TRACTION BELTS, AND TRACTION CORDS, IN CLASS 10 (U.S. CL. 44).~~ ✓

FIRST USE 1-1-1940; IN COMMERCE 1-1-1940. ✓

OWNER OF U.S. REG. NO. 719,717. ✓

SER. NO. 717,674, FILED 3-21-1988. ✓

KEVIN PAUL STEINMAN, EXAMINING ATTORNEY

EXHIBIT A



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**Word Mark** POSEY

Goods and Services IC 010. US 026 039 044. G & S: HOSPITAL EQUIPMENT, NAMELY, RESTRAINING VESTS, JACKETS [AND SUITS] ; APRONS; PATIENT RESTRAINING NETS; PADDING FOR WHEELCHAIRS; [DECUBITUS PADS;] CUSHIONS; CUFFS; PROTECTIVE [GLOVES AND] MITTS; STRAIGHT JACKETS; [PATIENT LIFTING CRADLES AND] BED CRADLES; WHEELCHAIR PATIENT SAFETY RESTRAINTS; I.V. TUBE AND CATHETER TUBE HOLDERS; CLIPS; HEEL PROTECTORS; FOOT GUARDS AND FOOT SUPPORTS; LIMB HOLDERS; ELBOW PROTECTORS; [CERVICAL COLLARS; SHOULDER IMMOBILIZERS;] ARM BOARDS AND STRAPS; I.V. BOARDS AND STRAPS; CUFF INFLATORS AND MANOMETERS; HAND AND FINGER SUPPORTS; WRIST AND ANKLE RESTRAINTS; [WRIST AND ANKLE WEIGHTS; BABY CARRIERS;] EYE PROTECTORS; [WATER AND SAND TRACTION WEIGHTS;] HAND EXERCISERS; WALKING BELTS; HAND GRIPS [; HEAD HALTERS; PELVIC TRACTION BELTS; AND TRACTION CORDS]. FIRST USE: 19400101. FIRST USE IN COMMERCE: 19400101

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design 05.03.07 - Clover, four-leaf**Search Code** 05.03.25 - Leaf, single; Other leaves

05.05.25 - Daffodils; Iris (flower); Other flowers

24.13.03 - Crosses formed by inscriptions (words intersecting)

Serial Number 73717674**Filing Date** March 21, 1988**Current Basis** 1A

Original Filing Basis 1A

Published for Opposition October 11, 1988

Registration Number 1518793

EXHIBIT A

Registration Date January 3, 1989
Owner (REGISTRANT) J. T. POSEY COMPANY CORPORATION CALIFORNIA 5635 PECK ROAD ARCADIA CALIFORNIA 91006
Attorney of Record James A. Henricks
Prior Registrations 0719717
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080929.
Renewal 1ST RENEWAL 20080929
Live/Dead Indicator LIVE

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Int. Cl.: 10

Prior U.S. Cls.: 26, 39 and 44

Reg. No. 2,817,300

United States Patent and Trademark Office

Registered Feb. 24, 2004

**TRADEMARK
PRINCIPAL REGISTER**

POSEY

J.T. POSEY COMPANY (CALIFORNIA CORPORATION)
5635 PECK ROAD
ARCADIA, CA 91006

FOR: HOSPITAL EQUIPMENT, NAMELY, ORTHOPEDIC SUPPORTS; SLINGS FOR MEDICAL USE; RESTRAINING DEVICES FOR HOSPITAL AND NURSING HOME PATIENTS, NAMELY, WRIST AND ANKLE RESTRAINTS, CUFFS, RESTRAINING VESTS, RESTRAINING JACKETS, STRAIGHT JACKETS, PATIENT RESTRAINING NETS, SAFETY BELTS, AND RESTRAINING SUITS; MODESTY APRONS FOR USE WITH WHEEL CHAIRS; ORTHOPEDIC AND SURGICAL SPLINTS; MATTRESS PADS AND MATTRESS PROTECTORS TO TREAT AND PREVENT PRESSURE ULCERS AND SORES; PADDING FOR WHEELCHAIRS; DECUBITUS PADS FOR ORTHOPEDIC USE; CUSHIONS FOR ORTHOPEDIC USE; PROTECTIVE GLOVES AND MITTS FOR SURGICAL AND MEDICAL USE; PATIENT LIFTING CRADLES AND BED CRADLES; WHEELCHAIR PATIENT SAFETY RESTRAINTS; ORTHOPEDIC SUPPORTS AND DEVICES, NAMELY, HEEL PROTECTORS, FOOT GUARDS, FOOT SUPPORTS, FOOT RESTS, LIMB

HOLDERS, ELBOW PROTECTORS, AND ARM BOARDS AND STRAPS; IV BOARDS AND STRAPS; SPHYGMOMANOMETERS AND CUFF INFLATORS THEREFOR; HAND AND FINGER ORTHOPEDIC SUPPORTS; PHYSICAL THERAPY EQUIPMENT, NAMELY HAND GRIPS, FOOTBOARDS, AND HAND EXERCISERS; WALKING BELTS, NAMELY ORTHOPEDIC SUPPORTS FOR THE HIPS; TRACTION CORDS FOR USE IN SUPPORTING WEIGHTS, SPLINTS, AND CASTS DURING TRACTION; AND ELECTRONIC PATIENT MONITORS FOR USE IN MONITORING PATIENT POSITION, PRESENCE, AND ABSENCE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 1-1-1940; IN COMMERCE 1-1-1940.

OWNER OF U.S. REG. NOS. 719,717 AND 1,518,793.

SEC. 2(F).

SER. NO. 78-214,203, FILED 2-12-2003.

GLENN CLARK, EXAMINING ATTORNEY

EXHIBIT A



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Word Mark POSEY

Goods and Services IC 010. US 026 039 044. G & S: Hospital equipment, namely, orthopedic supports; slings for medical USC; restraining devices for hospital and nursing home patients, namely, wrist and ankle restraints, cuffs, restraining vests, restraining jackets, straight jackets, patient restraining nets, safety belts, and restraining suits; modesty aprons for use with wheel chairs; orthopedic and surgical splints; mattress pads and mattress protectors to treat and prevent pressure ulcers and sores; padding for wheelchairs; decubitus pads for orthopedic use; cushions for orthopedic use; protective gloves and mitts for surgical and medical use; patient lifting cradles and bed cradles; wheelchair patient safety restraints; orthopedic supports and devices, namely, heel protectors, foot guards, foot supports, foot rests, limb holders, elbow protectors, and arm boards and straps; IV boards and straps; [sphygmomanometers] and cuff inflators therefor; hand and finger orthopedic supports; physical therapy equipment, namely, hand grips, footboards, and hand exercisers; walking belts, namely, orthopedic supports for the hips; traction cords for use in supporting weights, splints, and casts during traction; and electronic patient monitors for use in monitoring patient position, presence, and absence. FIRST USE: 19400101. FIRST USE IN COMMERCE: 19400101

Mark Drawing Code (1) TYPED DRAWING**Serial Number** 78214203**Filing Date** February 12, 2003**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** December 2, 2003**Registration Number** 2817300**Registration Date** February 24, 2004**Owner** (REGISTRANT) J.T. POSEY COMPANY CORPORATION CALIFORNIA 5635 Peck Road Arcadia CALIFORNIA 91006**Attorney of Record** James A. Henricks

EXHIBIT A

Prior Registrations 0719717;1518793
Type of Mark TRADEMARK
Register PRINCIPAL-2(F)
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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United States of America

United States Patent and Trademark Office

POSEY

J.T. POSEY COMPANY (CALIFORNIA CORPORATION)

5635 PECK ROAD
ARCADIA, CA 91006

Reg. No. 3,875,355
Registered Nov. 16, 2010
Int. Cls.: 10, 20 and 25

TRADEMARK

PRINCIPAL REGISTER

FOR: HAND AND LIMB PATIENT RESTRAINTS; PATIENT BEDSIDE FLOOR CUSHIONS FOR MEDICAL PURPOSES; HIP PROTECTORS COMPRISING CUSHIONS FOR MEDICAL PURPOSES; PATIENT MONITORING FALL ALARMS; PATIENT MONITORING SENSORS; MAGNETS FOR MEDICAL PURPOSES, NAMELY, MAGNETS CODED FOR CHARACTERIZING PATIENTS; BED GAP FILLER IN THE NATURE OF CUSHIONS FOR MEDICAL PURPOSES; BED CUSHIONS FOR MEDICAL PURPOSES; TIE FOR ENDO-TRACHEAL TUBES; GAIT BELTS; INCONTINENCE BED PADS AND COVERS THEREFOR; CHIN STRAP FOR MEDICAL PURPOSES; CATHETER HOLDER STRAP; IV SHIELD; EYE PROTECTORS FOR SHIELDING PATIENT'S EYES FROM LIGHT FOR MEDICAL PURPOSES, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 12-31-1993; IN COMMERCE 12-31-1993.
FOR: BED ENCLOSURE COMPRISED OF BEDSIDE RAIL PROTECTORS FOR USE WITH PATIENT BEDS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).
FIRST USE 12-31-1993; IN COMMERCE 12-31-1993.
FOR: SLIPPERS AND SOCKS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-31-1993; IN COMMERCE 12-31-1993.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 719,717, 1,518,793, AND 2,817,300.

SEC. 2(F).

SER. NO. 77-658,402, FILED 1-28-2009.

NATALIE POLZER, EXAMINING ATTORNEY



Director of the United States Patent and Trademark Office

David S. K. [Signature]

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declaration of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



Please note that U.S. Customs & Border Protection (CBP), a bureau of the Department of Homeland Security, maintains a trademark recordation system for marks registered at the United States Patent and Trademark Office. Parties who register their marks on the Principal Register may record these marks with CBP, to assist CBP in its efforts to prevent the importation of goods that infringe registered marks. The recordation database includes information regarding all recorded marks, including images of these marks. CBP officers monitor imports to prevent the importation of goods bearing infringing marks, and can access the recordation database at each of the 317 ports of entry.

CBP's Intellectual Property Rights e-Recordation (IPRR) system, located at <https://apps.cbp.gov/e-recordations/>, allows right holders to electronically file IPR recordation applications, thus significantly reducing the amount of time normally required to process paper applications. Some additional benefits of the system include:

- Elimination of paper applications and supporting documents.
- Copies of the certificate issued by the registering agency (U.S. Patent and Trademark Office or the Copyright Office) are retained by the right holder, not submitted to CBP.
- Payment by credit card (preferred), check or money order.
- Ability to upload images of the protected work or trademark, thus obviating the need to send samples to CBP.
- Reduced time from filing of the application to enforcement by field personnel.

Information about how to obtain a recordation, and about CBP's Intellectual Property Rights border enforcement program, is available at CBP's web site, www.cbp.gov.

EXHIBIT A



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POSEY

Word Mark

POSEY

Goods and Services

IC 010. US 026 039 044. G & S: Hand and limb patient restraints; patient bedside floor cushions for medical purposes; hip protectors comprising cushions for medical purposes; patient monitoring fall alarms; patient monitoring sensors; magnets for medical purposes, namely, magnets color coded for characterizing patients; bed gap filler in the nature of cushions for medical purposes; bed cushions for medical purposes; tie for endotracheal tubes; gait belts; incontinence bed pads and covers therefor; chin strap for medical purposes; catheter holder strap; IV shield; eye protectors for shielding patient's eyes from light for medical purposes. FIRST USE: 19931231. FIRST USE IN COMMERCE: 19931231

IC 020. US 002 013 022 025 032 050. G & S: bed enclosure comprised of bedside rail protectors for use with patient beds. FIRST USE: 19931231. FIRST USE IN COMMERCE: 19931231

IC 025. US 022 039. G & S: slippers and socks. FIRST USE: 19931231. FIRST USE IN COMMERCE: 19931231

Standard Characters Claimed**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

Serial Number 77658402**Filing Date** January 28, 2009**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** August 31, 2010**Registration Number** 3875355

EXHIBIT A

Registration Date November 16, 2010

Owner (REGISTRANT) J.T. Posey Company CORPORATION CALIFORNIA 5635 Peck Road Arcadia CALIFORNIA 91006

Attorney of Record James A. Henricks

Prior Registrations 0719717;1518793;2817300

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Live/Dead Indicator LIVE

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EXHIBIT B

Sound Amplifier

- High sensitivity microphone amplifies environmental sounds (eg. amplifying distant staff members or visitor voices, amplifying telephone, radio, and TV sounds, attending activities with a distant speaker, etc.).
- Adjustable volume control.
- Soft ear buds.
- Fits in pocket or clips to your belt.
- Battery included.

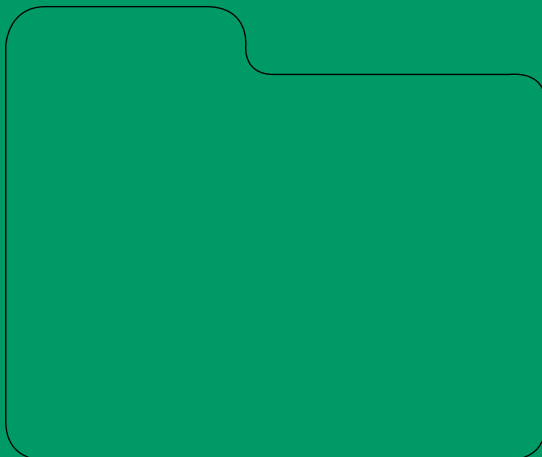


EXHIBIT B

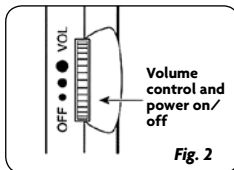
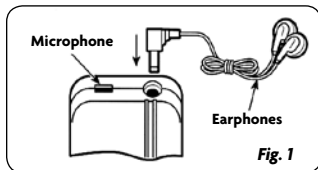
Sound Amplifier



8274

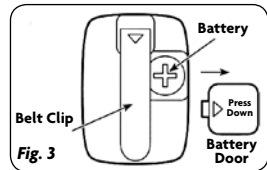
To Use:

1. Plug the earphones into the Sound Amplifier (fig. 1).
2. Use the volume control dial to turn the unit on and adjust the volume (fig. 2).



To Change Battery:

1. Press down on arrow and slide the belt clip off (fig. 3).
2. With belt clip removed, press down on arrow and slide the battery compartment door off (fig. 3).
3. Insert a new battery (fig. 3) (LR44, 1.5V Alkaline).
4. Reattach the battery door and belt clip (fig. 3).



ALWAYS verify Sound Amplifier is working properly and volume is not too loud to cause discomfort or injury when placing the Sound Amplifier on another person.

Cleaning:

Wipe clean with disinfectant liquids that DO NOT contain Phenol. DO NOT submerge in liquid or sterilize with heat.

Storage Instructions:

- This device is designed for use in normal indoor environments.
- This device may be stored in ambient warehouse temperatures at normal humidity levels. Avoid excess moisture or high humidity that may damage product materials.

Disposal:

⚠ WARNING The battery in this product contains mercury and must be recycled or disposed of according to local, state and federal laws. Dispose of per facility policy for BIOHAZARDOUS material. Be sure to follow all laws that apply.

Warranty: This product is warranted for 30 days.

Distributed By Posey

5635 Peck Road • Arcadia, CA 91006-0020 USA • Tel: 1.800.447.6739 or 1.626.443.3143

Fax: 1.800.767.3933 or 1.626.443.5014 • www.posey.com

MADE IN CHINA

EXHIBIT C



United States Patent and Trademark Office

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POSEY'S HEARING AID CENTER

Word Mark	POSEY'S HEARING AID CENTER
Goods and Services	IC 010. US 026 039 044. G & S: Hearing aids. FIRST USE: 19470101. FIRST USE IN COMMERCE: 19470101
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85812607
Filing Date	December 29, 2012
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 10, 2013
Owner	(APPLICANT) Mark L. Moore INDIVIDUAL UNITED STATES 2281 Lava Ridge Court, Suite 130 Roseville CALIFORNIA 95661
Attorney of Record	David A. Valerio, Esquire
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HEARING AID CENTER" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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EXHIBIT C